

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ALEX REINIG, KEN GRITZ, BOB SODA,
MARY LOU GRAMESKY, PETER WILDER
SMITH, WILLIAM KINSELLA, DANIEL
KOLENDA, VALERIA DAL PINO,
AHMAD NAJI, ROBERT PEDERSON,
TERESA FRAGALE, and DAVID
HOWARD,

15cv1541

ELECTRONICALLY FILED

Plaintiffs,

v.

RBS CITIZENS, N.A.,

Defendant.

**MEMORANDUM ORDER RE: PLAINTIFFS' TRIAL EXHIBIT BINDER AND
JOINT 2019 TRIAL EXHIBIT LIST**

A pretrial conference is set for September 16, 2019, at 9:00 a.m., in preparation for the jury trial in this matter, which shall commence on September 23, 2019. Currently pending before the Court are: (1) Defendant's extensive objections to Plaintiff's trial exhibits (Doc. 314); (2) Plaintiffs' limited objections to Defendant's trial exhibits (*id.*); and (3) Plaintiffs' Motion to Strike Defendant's Undisclosed Witnesses (Doc. 319). In reviewing these matters, the Court has compared the binder of trial exhibits submitted to the Court by Plaintiffs on September 3, 2019 with the parties' 2019 Trial Exhibit List (Doc. 314), and the Court has discovered a number of issues with Plaintiffs' trial exhibit binder.

First, a number of exhibits are missing from Plaintiffs' trial exhibit binder. By way of example only, Plaintiffs did not include in their trial exhibit binder Exhibits P-6, P-7, P-11, P-12, P-16, and P-17. The absence of P-16, described in the parties' 2019 Trial Exhibit List as "Summary Exhibits of Regular and OT Hours Reported Per MLO and Trends," is particularly troublesome since Defendant relies on this exhibit in its Response to Plaintiffs' Motion to Strike Defendant's Undisclosed Witnesses. *See* Doc. 325, at 6 n. 4. Therefore, the Court needs to review the document before it can rule on Plaintiffs' Motion to Strike.

Second, a number of the trial exhibits contained in the trial exhibit binder do not appear to be the correct document based upon the "Exhibit Description" set forth in the 2019 Trial Exhibit List. By way of example, P-14 is described in the 2019 Trial Exhibit List as "All discovery and depositions designated as Defendants," but the document contained in the Plaintiffs' trial exhibit binder under the tab P-14 is a document titled "Testimony and Discovery Responses from the Representative Discovery Plaintiffs" (and is described by Plaintiffs in its index at the front of the trial exhibit binder as "Summary of Hours Worked as provided by Testimony"). Similarly, P-11 is described in the 2019 Trial Exhibit List as "Defendants' Answers to Interrogatories," but the document contained in the Plaintiffs' trial exhibit binder under the tab P-11 does not contain any answers to interrogatories by Defendant, and appears to be attendance records.

Third, Plaintiffs' description in the Joint 2019 Trial Exhibit List of a number of their trial exhibits, wherein they utilize numbers only to describe the document, is confusing. Strictly by way of example, P-4(1), currently described as

“CITIZENS_ESI00028857.txt,” could be described as 5/17/13 T. Kuhn email to M. Fiorello and J. Schwartz.

Fourth, the last trial exhibit of Plaintiffs listed on the parties’ 2019 Trial Exhibit List is P-21. Yet, in the trial exhibit binder Plaintiffs submitted to the Court, Plaintiffs include exhibits P-25 and P-26. Additionally, on September 3, 2019, Plaintiffs provided the Court with P-29, which they told the Court they had inadvertently failed to print.

Until the Plaintiffs submit a trial exhibit binder that contains all of its trial exhibits and matches the parties’ 2019 Trial Exhibit List, the Court is unable to rule on either Defendant’s objections to Plaintiffs’ trial exhibits (Doc. 314) or Plaintiffs’ Motion to Strike Defendant’s Undisclosed Witnesses (Doc. 319). Accordingly, Plaintiffs shall provide the Court with a revised trial exhibit binder that addresses all of the issues raised in this Memorandum Order no later than September 13, 2019 at 3:00 p.m. Further, because Defendant relies on P-16 in its Response to Plaintiffs’ Motion to Strike, *see* Doc. 325, at 6 n. 4, Defendant shall provide the Court with a copy of P-16 no later than September 12, 2019 at 5:00 p.m. Further, the parties shall file a readable (larger font) revised Joint Trial Exhibit List no later than September 16, 2019 at 8:30 a.m., in which Plaintiffs’ exhibits are fully and accurately described.

SO ORDERED this 12th day of September, 2019.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Court Judge

cc: All ECF Registered Counsel of Record